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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,092	11/19/2003	Steve Wang	1315.68260	7286
24978	7590	09/21/2005	EXAMINER	
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			HAYES, BRET C	
			ART UNIT	PAPER NUMBER
			3644	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/717,092

Applicant(s)

WANG, STEVE

Examiner

Bret C. Hayes

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 and 18-20 is/are allowed.
- 6) ☒ Claim(s) 1-3,6,9 and 12-16 is/are rejected.
- 7) ☒ Claim(s) 4,5,7,8 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 6 and 12 – 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,819,582 to Lichvar.

3. Re – claims 1 and 12, Lichvar discloses the claimed invention including a kennel, best seen in Fig. 1, for example, comprising: a plurality of side panels, see same, configured for coupling to one another, via means 36, for example; and a gate panel, as including the open door in Fig. 1, for example, comprising: a pair of ends 6, each of said ends configured for connecting to said side panels, as via 36 again, for example, to form an enclosure – the ‘kennel’ as previously claimed – a doorway, best seen in Fig. 6, for example, positioned between said ends and defined by at least one doorway frame member, 12, for example, having at least one boss, the lower portion of the upper member 12 and the upper portion of the lower member 12, for example, formed therewith, and a door, 22 et al., for example, configured for opening and closing said doorway and having at least one door frame member 27 directly and rotatably attached to said boss of said doorway frame member, as set forth at col. 3, lines 40 – 50, for example. Re – claim 12, specifically, the one or more barrier panels includes the panel to the right of the door as in Fig. 1, for example.

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4. Re – claims 2 and 15, Lichvar discloses the claimed invention further wherein said door includes a secure fitting 26, for example, directly connecting said door frame member 27 to said doorway frame member 12.

5. Re – claim 6, Lichvar further discloses wherein said at least one door frame member 27 comprises a pair of horizontal members 28 each having a secure fitting, as via means 37, for example, for receiving said door. 22 et al., for example.

6. Re – claim 13, Lichvar discloses the claimed invention as applied to claim 12 above and wherein the one or more barrier panels each have an end connected to said doorway and another end configured for connecting to a side panel, as best seen in Fig.1, for example.

7. Re – claim 14, Lichvar further discloses wherein each of the one or more barrier panels comprises a pair of vertical frame members, similar to 6 used throughout, a pair of horizontal frame members, 4 used throughout, so connected, and a wire cloth\* 14 for example, so connected. Lichvar discloses a welded wire mesh, which, in this instance, can be interpreted as encompassing a wire cloth as claimed, since the terms “cloth” and “wire” tend to be mutually exclusive and the equivalence of “mesh” and “cloth” would be inherent.

### *Claim Rejections - 35 USC § 103*

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3, 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lichvar.

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10. Re – claims 3 and 16, Lichvar discloses the invention substantially as claimed as applied above except for the secure fitting 26 encircling at least a portion of the doorway frame member 12 to facilitate rotation. In fact, Lichvar discloses exactly the opposite arrangement, which would constitute a mere reversal of the elements with respect to structure and related function. It would have been obvious to one having ordinary skill in the art at the time the invention was made to so reverse the elements, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

11. Re – claim 9, Lichvar discloses the claimed invention except for wherein said doorway and said door are integrally formed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to integrally form the two elements, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1983). Further, it has been held that the term “integral” is sufficiently broad to embrace constructions united by such means as fastening and welding, which, in this case, would tend more to anticipate than obviate the claimed invention. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973).

#### ***Response to Arguments***

12. Applicant's arguments with respect to claims 1 – 16 and 18 – 20 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Allowable Subject Matter***

13. Claims 11 and 19 are still allowed. Claims 18 and 20 are allowed as dependent upon claim 19.

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14. Claims 4, 5, 7, 8 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (571) 272 – 6902. The examiner can normally be reached Monday through Friday from 5:30 am to 2:00 pm, Eastern Standard Time.


On July 15, 2005, the Central FAX Number was changed to **571-273-8300**. This new Central FAX Number is the result of relocating the Central FAX server to the Office's Alexandria, Virginia campus.

Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and **571-273-8300** will be the only facsimile number recognized for “centralized delivery”.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu, can be reached at (571) 272 – 7045.

bh

17-Sep-05

  
TERI PHAM LUU  
SUPERVISORY  
PRIMARY EXAMINER